

GUIDANCE FOR REVIEWING REQUESTS FOR ACCOMMODATION AND SPECIAL NEEDS FLEXIBLE FUNDING REQUESTS FOR CHILDREN WITH DISABILITIES

The Department of Early Education and Care (EEC) has established regulatory standards that support high quality early education and care programs that reflect the diversity of the Commonwealth. Part of that diversity includes licensees' accepting applications and making reasonable accommodations to welcome or continue to serve any child with a disability.

Pursuant to 606 CMR 7.04(13), a licensee must, with parental consent and as appropriate, request information about the child from the Local Education Agency (LEA), Early Intervention (EI) Program or other health or service providers. Based upon the available information, the licensee, with the parent's input, must identify in writing the specific accommodation, if any, to meet the needs of the child at program. The licensee must determine whether the accommodation required presents an unreasonable or undue burden, considering the following factors:

- nature and cost of the required accommodation;
- ability to secure funding or services from other sources;
- the financial resources of the program; and
- the impact on the program, including the effect on expenses and resources.

The licensee will then make a decision whether the accommodation required by 606 CMR 7.04(13) is unreasonable or would cause an undue burden to the licensee.

Undue Burden to the Licensee

If the requested accommodation would cause an undue burden to the program, the licensee must provide written notification to the parent(s) within thirty (30) days of the receipt of the information requested from the LEA, EI or other service providers, if in the licensee's judgment, the accommodation required to serve the child is not reasonable or would cause an undue burden to the program. This notification must include:

- the reasons for the licensee's decision; and
- notification to the parent(s) that they may request EEC to review the licensee's decision to determine compliance with 102 CMR 1.03(1)¹ and 606 CMR 7.04(13).

The licensee should inform parents of other available services and/or programs that can meet the needs of the child.

Reasonable Accommodation

If the necessary accommodation does not cause an undue burden to the program, the licensee shall enroll or continue to serve the child by undertaking the appropriate accommodation to the licensee's program. This may require working with local service providers and/or the child's school, with the parents' consent. An appropriate accommodation may require the use of community resources, such as a referral to EEC's partners including the local Coordinated Family and Community Engagement (CFCE) grantee or the Mental Health Consultation Services grantee.

¹ EEC's regulation at 102 CMR 1.03(1) addresses non-discrimination: "the licensee shall not discriminate in providing services to children and their families on the basis of race, religion, cultural heritage, political beliefs, national origin, marital status, sexual orientation or disability."

Accommodation through Special Needs Flexible Funding

A licensee may determine that a reasonable accommodation can be made to serve a subsidized child but that due to the nature of the accommodation, short-term financial assistance is required. Short-term financial assistance may be authorized for up to six months, with a one-time renewal of another six months if authorized by EEC. At no time may short-term financial assistance exceed twelve months.

Subject to appropriation, EEC has limited flexible funding available on a first come, first served, case-by-case basis to provide temporary financial support to programs to successfully transition and include a subsidized child with disabilities/special needs. Appropriate fund use may include:

- consultation to identify necessary supports for the child,
- training for program staff,
- specialized equipment, or
- a temporary aide position to enhance staffing.

EEC considers this funding as a temporary and preparatory step and expects a program to integrate any funded accommodations into its regular practice, in order to enhance the program's ability to better meet the child's needs.²

1. Review

The EEC Financial Assistance Policy Analyst shall review all flex pool funding requests. If required, the EEC Financial Assistance Policy Analyst shall promptly forward specific questions regarding a program's funding request to the appropriate regional Family Community Quality Specialist. The regional Family Community Quality Specialist will confer with the EEC licensor for the program and respond within two business days. In addition, the EEC Financial Assistance Policy Analyst has discretion to seek input from the Regional Consultation Program, the Early Childhood Mental Health Specialist, and/or the QRIS Health Care Consultant.

In making decisions to approve/deny applications for flex pool funding, reviews will be based on an evaluation of all documentation submitted on a case-by-case basis. In addition, the EEC Financial Assistance Policy Analyst may determine the need to conduct a site visit to ensure proper, effective and efficient use of flexible funds.

At a minimum, each special needs funding request shall include:

- ☐ Children with Disabilities/Special Needs Flexible Funding Application Request
- ☐ Parental request and consent initiating information from the Local Education Agency (LEA), Early Intervention Program or other health or service providers
- ☐ EEC Standard Parental Consent form
- ☐ A written statement of the licensee's attempts to accommodate the child's disability, including outreach to the local CFCE grantee and/or Mental Health Consultation Services grantee
- ☐ A written plan that describes the use of funds and how the program will transition the costs of the accommodation for the child from the flexible funding to its operating budget.
- ☐ Disabilities/Special Needs Flexible Funding Budget Request

² EEC further expects that all programs seeking an accommodation through Special Needs Flexible Funding are enrolled in the Massachusetts Quality Rating and Improvement System (QRIS) as required by their early education and care voucher services agreement or contract.

- ☐ EEC Verification of Disability/Special Need for Children Form, including all required supplemental documentation (completed by a Physician, Psychiatrist, Psychologist, Nurse Practitioner, Psychiatric Nurse, Early Intervention Program Director or Special Education Staff Director with an accompanying letter)
- ☐ Proof of referral and/or documentation of service delivery to behavioral health specialist, early intervention services, or special education services, as appropriate
- ☐ Job description, if request is for an aide position
- ☐ If request is for training or consultation services, name of person and/or organization, with documented qualifications of ability to provide training and/or consultation

If the child is on an IFSP, IEP or 504 plan, the licensee must note whether the IFSP, IEP and/or 504 plan requires a 1:1 aide for the child or other accommodation that the program is seeking through this flexible funding request (i.e., if the program is seeking a one-on-one aide, but the child does not have an IEP, which requires a one-on-one, the licensee will be asked to explain this discrepancy in writing).

2. Additional Considerations

If the program has been approved for multiple aides in several classrooms, the licensee must offer justification of why another aide is needed at this time. EEC reserves the right to limit the number of aides utilized by individual classrooms.

3. Funding Decisions

All reviews shall be conducted with a result of one of the following three options:

- ☐ Approved
- ☐ Conditionally Approved, subject to a scheduled site visit
- ☐ Not approved with transition plan and referrals

Decisions shall be made no later than 30 days after receiving the request, unless a site visit is required, then a decision will be made within 45 days of receiving request.

For contracted providers, the EEC Financial Assistance Policy Analyst shall notify each program in writing of the decision to approve, conditionally approve or deny each request. If denied, the contracted provider shall develop a transition plan for the child. If approved, the Disabilities/Special Needs Flexible Funding Budget Request shall be returned to the program. The program then submits this form with a Payment Voucher to EEC for payment.

For voucher children, the EEC Financial Assistance Policy Analyst shall notify the CCR&R in writing of approval, conditional approval, or denial of the voucher program's request and sends the signed Disabilities/Special Needs Flexible Funding Budget Request to the appropriate CCR&R. If denied, the CCR&R shall assist the voucher program with a transition plan and referrals to assist with the child's and program's needs. If approved, the CCR&R shall submit the Disabilities/Special Needs Flexible Funding Budget Request with a Payment Voucher to EEC for payment on behalf of the voucher provider.

Any flexible funding application that is denied shall be submitted, with accompanying documentation, to the EEC legal unit for review.